

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3141 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJKOT SHAHER MAHILA GRUH UDYOG SAHAKARI MANDALI LTD

Versus

STATE OF GUJARAT

Appearance:

MR SHIRISH JOSHI for Petitioner
Mr.Digant P. Joshi, ASSTT. GOVERNMENT PLEADER for]
Respondent No. 1, 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 09/03/2000

ORAL JUDGEMENT :

The petitioner is a cooperative society, duly registered under the Cooperative Societies Act, 1961. The petitioner society is limited only for women and is being managed by the Managing Trustee elected by the

General Board of the society. The petitioner society is established for the welfare of the women who are not employed or who have no other source of income. The object of the society is to provide them with guidance and even monetary assistance to establish their own household industries and the activities and if possible to get them some employment in the society itself. It is submitted by the learned advocate for the petitioner that one of the main activities of the society is to run a canteen in the Civil Hospital premises. The other main activities of the society are to provide nutritious food to kindergartens (Aanganwadis) run by the Municipal Corporation of Rajkot. The petitioner society had applied for space or room to run canteen in the Civil Hospital, which had no canteen to provide food to the relatives of the patients, doctors and other staff members of the Hospital. Said application was granted and permission was given in writing by the Government Resolution dated 21st July 1983, at Annexure 'A' to the petition. The petitioner society, after having received the aforesaid order, Annexure 'A' had invested more than Rs.50,000/- on utensils and other things. It is also the case of the petitioners that the Health Department of the Government of Gujarat had given contract to provide bread/ butter to the entire Hospital including the Eye Hospital at Rajkot, which was valid for the period upto 31.3.1988. Mr.Joshi submits that even today, the petitioner society is running the canteen effectively and there is no grievance.

2. The petitioner society approached this Court by filing the present petition against the Resolution dated 2nd June 1987, passed by the Health and Family Welfare Department, Govt. of Gujarat, Annexure 'C' to the petition, whereby the canteen services were sought to be handed over to Akhil Hind Mahila Parishad, Rajkot Branch, pursuant to which the petitioner was served with an order dated 24.6.1987, whereby the Resolution dated 21st July 1983, Annexure 'A' was cancelled and it was also directed by the said order that the petitioner society shall hand over possession of the building allotted to it to run the canteen.

3. This Court issued notice on 2.7.1987 making it returnable on 10.7.1987 and in the meantime granted ad interim relief to maintain status quo as on the date of the order. Thereafter, this Court issued rule on 1.8.1987 and ordered the ad interim relief granted on 2.7.1987 to continue till further orders.

4. Mr.Joshi has submitted that the building was

granted to the petitioner society to run the canteen on the terms and conditions which are mentioned in the Govt. Resolution dated 21.7.1983 Annexure 'A' and in condition no.3, it was very specifically mentioned that the society will have to return possession of the building to the authorities in the event of the authorities requiring the said building for the purpose of extension of the Eye Hospital. It is the case of the petitioner society that the order by which the aforesaid Resolution is cancelled, does not mention that contingency to have happened. Not only that it is clear from the Resolution dated 2nd June 1987, Annexure 'C' to the petition that the authorities have decided to hand over possession of the building to the Rajkot Branch of Akhil Hind Mahila Parishad, which shows that Resolution, Annexure 'C' and consequent order, Annexure 'B' are passed for extraneous considerations.

5. Mr.Digant Joshi, learned AGP for the respondents submits that the building given to the petitioner society is now, in fact, required for extension of the Eye Hospital. If that is so, the possession of the building can be sought from the petitioner society even as per the terms and conditions mentioned in the Resolution passed in favour of the petitioner society. Mr.Shirish Joshi has submitted that in any case, the impugned Resolution, Annexure 'C' and the impugned order at Annexure 'B' cannot be sustained by the authorities in view of the fact that the same are passed on extraneous considerations and if at all the authorities require possession of the building for extension of the Eye Hospital they should pass appropriate orders in that regard.

6. In the result, order at Annexure 'B' and the Resolution at Annexure 'C' are quashed and set aside inasmuch as they are passed on the grounds which are contrary to the terms and conditions on which the petitioner society was granted building at Annexure 'A'. However, it will be open to the authorities to pass fresh orders, seeking possession of the building in the changed circumstances, in consonance with the terms and conditions on which the petitioner society was granted the building to carry on its activity of running the canteen. Looking to the activities carried on by the petitioner society, it will be in fitness of things and also in the interest of justice that the authorities shall pass fresh orders, if any, keeping in mind the services rendered by the petitioner society, as narrated in the petition.

7. In the result, the petition is allowed. The

order at Annexure 'B' and the Resolution at Annexure 'C'
are quashed and set aside. Rule is made absolute with no
order as to costs.

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